

## REMARKS

With this response, claims 1-26 are canceled without comment, prejudice or disclaimer, and new claims 27-46 are added. The rejections of claims 1-26 in the Final Office Action mailed on August 23, 2006 are rendered moot.

New independent claim 27 recites a portable audio player including a memory to store data associated with a plurality of audio tracks and a processor coupled to the memory, where the processor receives biometric data and selects one of the plurality of audio tracks according to the biometric data. None of the cited references, alone or in combination, disclose or suggest selection of an audio track according to biometric data, as recited by independent claim 27.

New independent claim 35 recites a method of selecting an audio track in a portable audio device. The method includes receiving biometric data associated with a user and selecting an audio track of a plurality of audio tracks from a memory of a portable audio device based on the biometric data. None of the cited references, alone or in combination, disclose or suggest selecting an audio track according to biometric data, as recited by independent claim 35.

New independent claim 42 recites a portable audio player including a memory to store data associated with a plurality of audio tracks and including a processor coupled to the memory. The processor receives movement data associated with a user and selects one of the plurality of audio tracks according to the movement data. None of the cited references, alone or in combination, disclose or suggest selection of an audio track according to movement data, as recited by independent claim 42.

New dependent claims 28-34, 36-41, and 43-46 are allowable over the cited references, at least by virtue of their dependency from one of the independent claims 27, 35, and 42. Applicants respectfully request consideration and allowance of all of the pending claims 27-46.

## CONCLUSION

Applicants have pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the references applied in the Final Office Action. Accordingly, Applicants

Attorney Docket No.: 1087-RIO446

respectfully request reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims 27-46.

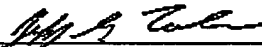
Any changes to the claims in this amendment, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

11-18-2006  
Date

  
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